

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.3864 of 1998

DATED: 13.06.2007

Between:

A.P.State Workcharged & NMR
Employees United Federation,
rep. by its General Secretary.

.. Petitioner.

And

The Industrial Tribunal-II,
Rep. by its Chairman,
II Floor, Chandravihar Building,
M.J.Road, Hyderabad,
and another.

.. Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.3864 of 1998

ORDER:

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This Writ Petition is filed for a Writ of Certiorari to quash the order, dated 10.12.1996, in I.A.No.67 of 1996, and the Award, dated 16.108.1996, in I.D.No.18 of 1995.

2. The petitioner, which claims to be an Employees Union, espoused the cause of 19 persons, who allegedly worked as workmen on daily wage basis in Irrigation & CAD Department under respondent No.2 for their regularization. The claim of the petitioner was that 15 persons worked as Work Inspectors, three persons worked as Man Mazdoor and one person as Cook. Having been appointed in the year 1989 for continuous period of more than five years as N.M.R workers, and as their representation, dated 07.07.1994, submitted to the Collector, Mahabubnagar, and which was forwarded to the Chief Engineer, Irrigation Department, was not positively responded to, the petitioner moved the Industrial Tribunal-II, Hyderabad, respondent No.1, through the Government under Section 10(1) (d) of the Industrial Disputes Act, 1947. The issue that was referred to respondent No.1 herein was whether the Management of Minor Irrigation Department, Government of A.P., is justified in terminating the said workmen instead of absorbing them as regular workmen as per the prevailing law. Before the first respondent-Tribunal, four workmen out of 19 N.M.R. workers were examined as witnesses (WW.2 to WW.5). They

have also marked certain documents, which included the purported service certificates issued by the Officers, under whom they worked. The Tribunal, after a thorough analysis of the entire material available on record, rejected the case of the petitioner that 19 named workmen have actually worked with the Irrigation Department under respondent No.2 as claimed by them, and refused to grant any relief. Before the award was made, the petitioner filed I.A.No.67 of 1996 to reopen the Industrial Dispute. However, the said application was dismissed on 10.12.1996 on the ground that the award was already published, and that, therefore, the petition became infructuous.

3. Heard Sri B.G.Ravinder Reddy, learned counsel for the petitioner, and the learned Government Pleader for Labour.

4. Learned counsel for the petitioner submitted that though sufficient material is produced before the Industrial Tribunal-II, the first respondent, it failed to properly appreciate the said material and had come to a wrong conclusion that 19 workmen have not worked under respondent No.2.

5. Learned Government Pleader seeks to support the award by saying that as the Tribunal on appreciation of the evidence available before it, gave a finding that the petitioner failed to show that 19 workmen had actually worked under respondent no.2, the award is not liable to be interfered with.

6. From the award, it is evident that out of 19 persons, only four persons were examined as WWs.2 to 5. With respect of WW.3, he produced Exs.W12 to W18 in support of his contention that he worked in the survey party. The first respondent-Tribunal examined each of

these documents and found that these documents refer to a Contractor under whom the said workman had presumably worked under hand receipt system. The Tribunal, therefore, rejected the said evidence. Similarly, WW.2 relied upon Ex.W10, the service certificate issued by Vital Rao, Deputy Executive Engineer. The Tribunal, in this context, noted the evidence of Executive Engineer, examined as MW.1, who deposed that the disciplinary proceedings were initiated against the said Vital Rao and that he was placed under suspension for issuing false certificates. The first respondent-Tribunal also referred to the evidence of WW.4, who stated in his cross-examination that there is no document to show that he worked as Work Inspector, as claimed by him, and in the case of WW.5, he produced Ex.W5 in support of his contention that he worked as NMR, but, in his cross-examination, he admitted that the said document does not contain any office seal or any office file number.

7. On an over all appreciation of entire evidence on record, the first respondent-Tribunal came to the conclusion that none of 19 persons, on whose behalf the Industrial Dispute was raised for regularization, was able to show that he had actually worked.

8. It is trite law that while exercising the power of judicial review, under Article 226 of the Constitution of India, the Court would not re-appreciate the evidence and set-aside the award, and even if two views are possible, the Court would not substitute its view with the view taken by the Court/tribunal. The award, in my considered opinion, does not suffer from any patent error, which warrants interference of this Court.

For the aforementioned reasons, the writ petition fails and is

accordingly dismissed. No order as to costs.

(C.V.NAGARJUNA REDDY,J)

Dt.13.06.2007

v v

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